From: 5028-19846509@requests.muckrock.com [mailto:5028-19846509@requests.muckrock.com]
Sent: Tuesday, April 23, 2013 8:18 AM
To: Mailbox, Public-Disclosure
Subject: Freedom of Information Request: Port of Seattle Police Department information sharing MOUs

April 23, 2013
Port of Seattle Police Department
Port of Seattle Police Department
PO BOX 68727
SEATTLE WA 98168-0727

To Whom It May Concern:

Pursuant to RCW Ch. 42.56 (Public Records Act), I hereby request the following records:

Memoranda of understanding (MOU's) regarding information sharing (the exchange of physical, analog, and digital data both public and non-public, gathered through Port of Seattle Police Department resources and activities, regardless of transmission method) between Port of Seattle Police Department and other entities (e.g., private businesses, trade associations, other police departments, fusion centers, federal agencies, etc.) and any agreements, binding or non-binding, to enter into or join groups, networks, or engage services providing information sharing of the same type. Information sharing in this context pertains to discreet information gathered about the public by the resources of the Port of Seattle Police Department, not to information gathered internally about the Port of Seattle Police Department for its own organizational, regulatory, or administrative reasons, and not to amalgamated statistical data provided to accredited academic entities for research purposes.

I also request that, if appropriate, fees be waived as I believe this request is in the public interest. The requested documents will be made available to the general public free of charge as part of the public information service at MuckRock.com, processed by a representative of the news media/press and is made in the process of news gathering and not for commercial usage.

In the event that fees cannot be waived, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 5 business days, as the statute requires.

Sincerely,

Phil Mocek

Filed via MuckRock.com
E-mail (Preferred): 5028-19846509@requests.muckrock.com

For mailed responses, please address (see note):
MuckRock News
DEPT MR 5028
PO Box 55819
Boston, MA 02205-5819

PLEASE NOTE the new address as well as the fact that improperly addressed (i.e., with the requester's name rather than MuckRock News) requests might be returned by the USPS as undeliverable.

902-40

COPY

JOINT TERRORISM TASK FORCE

STANDARD MEMORANDUM OF UNDERSTANDING

BETWEEN

THE FEDERAL BUREAU OF INVESTIGATION

AND

PORT OF SEATTLE POLICE DEPARTMENT
(the "Participating Agency")

PREAMBLE

The policy of the United States with regard to domestic and international terrorism is to deter, defeat, and respond vigorously to all terrorist attacks on our territory and against our citizens, or facilities. Within the United States, the Department of Justice, acting through the Federal Bureau of Investigation (FBI), is the lead agency domestically for the counterterrorism effort.

In order to ensure that there is a robust capability to deter, defeat, and respond vigorously to terrorism in the U.S. or against any U.S. interest, the FBI recognizes the need for all federal, state, local, and tribal agencies that are involved in fighting terrorism to coordinate and share information and resources. To that end, the FBI believes that the creation of the FBI National Joint Terrorism Task Force (NJTTF) and Joint Terrorism Task Forces (JTTFs) embodies the objectives of the U.S. policy on counterterrorism as set forth in Presidential Directives.

FBI policy for the NJTTF and JTTFs is to provide a vehicle to facilitate sharing FBI information with the intelligence and law enforcement communities to protect the United States against threats to our national security, including international terrorism, and thereby improve the effectiveness of law enforcement, consistent with the protection of classified or otherwise sensitive intelligence and law enforcement information, including sources and methods. All NJTTF and JTTF operational and investigative activity, including the collection, retention and dissemination of personal information, will be conducted in a manner that protects and preserves the constitutional rights and civil liberties of all persons in the United States.

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This Memorandum of Understanding (MOU) shall serve to establish the parameters for the detail of employees (Detailees or members) from the Port of Seattle Police Department, hereinafter Participating Agency, to the FBI-led JTTFs in selected locations around the United States.

I. PURPOSE

A. The purpose of this MOU is to outline the mission of the JTTF, and to formalize the relationship between the FBI and the Participating Agency, in order to maximize cooperation and to create a cohesive unit capable of addressing the most complex terrorism investigations.

B. The MOU specifically represents the agreement between the FBI and the Participating Agency, which will govern the process by which employees of the Participating Agency are detailed to work with the FBI as part of the JTTF.

C. This MOU is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law or otherwise by any third party against the parties, their parent agencies, the U.S., or the officers, employees, agents or other associated personnel thereof.

II. MISSION

The mission of the JTTF is to leverage the collective resources of the member agencies for the prevention, preemption, deterrence and investigation of terrorist acts that affect United States interests, and to disrupt and prevent terrorist acts and apprehend individuals who may commit or plan to commit such acts. To further this mission, the JTTF shall serve as a means to facilitate information sharing among JTTF members.

III. AUTHORITY

Pursuant to 28 U.S.C. § 533, 28 C.F.R. § 0.85, Executive Order 12333, Presidential Decision Directives (PDD) 39, PDD 62, and pending approval of National Security Presidential Decision Directive (NSPD) 46 and Homeland Security Presidential Directive (HSPD) 15, the FBI is authorized to coordinate an intelligence, investigative, and operational response to terrorism. By virtue of that same authority, the FBI formed JTTFs composed of other federal, state, local, and tribal law enforcement agencies acting in support of the above listed statutory and regulatory provisions.

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IV. CONTROLLING DOCUMENTS

A. Since the JTTF operates under the authority of the Attorney General of the United States, all JTTF participants must adhere to applicable Attorney General's Guidelines and directives, to include the following; as amended or supplemented:

1. Attorney General's Guidelines on General Crimes, Racketeering Enterprise and Terrorism Enterprise Investigations;

2. Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection;

3. Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations;

4. Attorney General's Guidelines Regarding Prompt Handling of Reports of Possible Criminal Activity Involving Foreign Intelligence Sources;

5. Attorney General Memorandum dated March 6, 2002, titled "Intelligence Sharing Procedures for Foreign Intelligence and Foreign Counterintelligence Investigations Conducted by the FBI";

6. Attorney General's Guidelines Regarding the Use of Confidential Informants;

7. Attorney General's Guidelines on the Development and Operation of FBI Criminal Informants and Cooperative Witnesses in Extraterritorial Jurisdictions;

8. Attorney General's Guidelines Regarding Disclosure to the Director of Central Intelligence and Homeland Security Officials of Foreign Intelligence Acquired in the Course of a Criminal Investigation; and

9. Memorandum from the Deputy Attorney General and the FBI Director re: Field Guidance on Intelligence Sharing Procedures for [Foreign Intelligence] and [Foreign Counterintelligence] Investigations (December 24, 2002).

B. All guidance on investigative matters handled by the JTTF will be issued by the Attorney General and the FBI. The FBI will provide copies of the above-listed guidelines and any other applicable policies for reference and review to all JTTF members. Notwithstanding the above, this MOU does not alter or abrogate existing directives or policies regarding the conduct of investigations or the use of special

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investigative techniques or controlled informants. The FBI agrees to conduct periodic briefings of the member agencies of the JTTF pursuant to all legal requirements and FBI policies.

V. STRUCTURE AND MANAGEMENT OF THE TASK FORCE

A. MEMBERS

1. Each JTTF shall consist of a combined body of sworn and non-sworn personnel from the FBI and each Participating Agency. This MOU shall apply to Participating Agencies that join the JTTF subsequent to execution of this agreement.

B. PROGRAM MANAGEMENT, DIRECTION, AND SUPERVISION

1. In order to comply with Presidential Directives, the policy and program management of the JTTFs is the responsibility of FBI Headquarters (FBIHQ). The overall commander of each individual JTTF will be the Special Agent in Charge (SAC) or Assistant Director in Charge (ADIC), if assigned, of the FBI's local Field Division. The operational chain of command beginning at the highest level, in each FBI Field Division will be as follows: ADIC if assigned, SAC, Assistant Special Agent in Charge (ASAC), and Supervisory Special Agent [JTTF Supervisor].

2. Each FBI ADIC/SAC, through his or her chain-of-command, is responsible for administrative and operational matters directly associated with the Division's JTTF(s). Operational activities will be supervised by FBI JTTF Supervisors. Staffing issues are the responsibility of the FBI chain of command.

3. All investigations opened and conducted by the JTTF must be conducted in conformance with FBI policy, to include the above stated Controlling Documents. Each FBI ADIC/SAC, through his or her chain-of-command, will ensure that all investigations are properly documented on FBI forms in accordance with FBI rules and regulations. Any operational problems will be resolved at the field office level. Any problems not resolved at the field office level will be submitted to each agency's headquarters for resolution.

4. Each Participating Agency representative will report to his or her respective agency for personnel administrative matters. Each Participating Agency shall be responsible for the pay, overtime, leave, performance appraisals, and other

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personnel matters relating to its employees detailed to JTTFs. As discussed later herein at Paragraph XI, the FBI and the Participating Agency may provide for overtime reimbursement by the FBI by separate written agreement.

5. Each JTTF member will be subject to the personnel rules, regulations, laws, and policies applicable to employees of his or her respective agency and also will adhere to the FBI's ethical standards and will be subject to the Supplemental Standards of Ethical Conduct for employees of the Department of Justice. Where there is a conflict between the standards or requirements of the Participating Agency and the FBI, the standard or requirement that provides the greatest organizational protection or benefit will apply, unless the organizations jointly resolve the conflict otherwise.

6. JTTF members are subject to removal from the JTTF by the FBI for violation of any provision of this MOU, the FBI's ethical standards, the Supplemental Standards of Ethical Conduct for employees of the Department of Justice, or other applicable agreements, rules, and regulations.

7. The FBI maintains oversight and review responsibility of the JTTFs. In the event of an FBI inquiry into JTTF activities by an investigative or administrative body, including but not limited to, the FBI's Office of Professional Responsibility or the FBI's Inspection Division, each Participating Agency representative to the JTTF. may be subject to interview by the FBI.

C. **PHYSICAL LOCATION AND SUPPORT**:

1. The FBI will provide office space for all JTTF members and support staff. In addition, the FBI will provide all necessary secretarial, clerical, automation, and technical support for the JTTF in accordance with FBI guidelines and procedures. The FBI will provide all furniture and office equipment. Participating agencies may bring office equipment or furniture into FBI space with the approval of the FBI JTTF Supervisor and in compliance with FBI regulations.

2. The introduction of office equipment and furniture into FBI space by Participating Agencies is discouraged, as any such material is subject to examination for technical compromise, which may result in its being damaged or destroyed.

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VI. SECURITY PROGRAM

A. CLEARANCES

1. State, local, and tribal members of the JTTFs, as well as appropriate supervisory personnel responsible for these individuals, must apply for and receive a Top Secret/Sensitive Compartmented Information (TS/SCI) Security Clearance granted by the FBI. JTTF members from other federal agencies must obtain a Top Secret/SCI clearance from their agency and have this information passed to the FBI. No one will have access to sensitive or classified documents or materials or FBI space without a valid security clearance and the necessary "need-to-know." Pursuant to the provisions of Section 1.2 of Executive Order 12968, Detailees are required to have signed a nondisclosure agreement approved by the FBI's Security Division. Pursuant to federal law, JTTF members are strictly forbidden from disclosing any classified information to individuals who do not possess the appropriate security clearance and the need to know.

2. All JTTF management personnel must ensure that each participating JTTF officer or agent undertakes all necessary steps to obtain a TS/SCI clearance. Conversion of FBI counterterrorism and JTTF spaces to Sensitive Compartmented Information Facilities (SCIFs) is underway. This will require that all JTTF task force officers enhance their clearances to TS/SCI (SI, TK, Gamma, HCS-P).

3. Federal agency task force officers should contact their Security Officers and request and obtain the following SCI Clearances: SI, TK, Gamma, and HCS-P. If the parent agency refuses or is unable to provide the appropriate clearances, the FBI will request the task force officer's security file. If provided, the FBI will adjudicate SCI clearances. This action may involve a prohibitively long process and should be avoided.

4. Each Participating Agency fully understands that its personnel detailed to the JTTF are not permitted to discuss official JTTF business with supervisors who are not members of the JTTF unless the supervisor possesses the appropriate security clearance and the dissemination or discussion is specifically approved by the FBI JTTF Supervisor. Participating Agency heads will be briefed regarding JTTF matters by the SAC or ADIC, as appropriate, through established JTTF Executive Board meetings.

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5. In accordance with the Director of Central Intelligence Directive (DCID) 6/4, entitled Personnel Security Standards and Procedures Governing Eligibility for Access to Sensitive Compartmented Information (SCI), the FBI will implement protocols to ensure Special Agent (SA) and Task Force Officers (TFO) assigned to Joint Terrorism Task Forces (JTTF) in the field and the National Joint Terrorism Task Force (NJTTF) at FBI Headquarters - Liberty Crossing 1, are in compliance with stated directive. In order to comply with DCID 6/4, all JTTF personnel, including FBI and non-FBI JTTF members and contractors who perform functions requiring access to FBI classified data networks and space, will be given counter-intelligence focused polygraphs. The FBI will recognize polygraph examinations conducted by outside federal agencies that meet the FBI's PSPP requirement. The FBI will make the final determination whether a polygraph examination meets the PSPP requirements.

6. All JTTF members must agree to submit to counter-intelligence focused polygraphs as part of the process for obtaining and retaining a Top Secret Security Clearance.

B. RESTRICTIONS ON ELECTRONIC EQUIPMENT

Personally owned Portable Electronic Devices (PEDs) including, but not limited to, personal digital assistants, Blackberry devices, cellular telephones, and two-way pagers are prohibited in FBI space unless properly approved. No personally owned electronic devices are permitted to operate within SCIFs as outlined in DCI Directive 6/9 and existing Bureau policy. All other non-FBI owned information technology and systems (such as computers, printers, fax machines, copiers, PEDs, cameras, and media including diskettes, CDS, tapes) require FBI approval prior to introduction, operation, connection, or removal from FBI spaces to include SCIFs. Additionally, if approved by the FBI Security Officer, these systems must operate in compliance with the FBI's policies, guidelines, and procedures.

VII. DEPUTATION

Non-federal members of the JTTF who are subject to a background inquiry and are sworn law enforcement officers will be federally deputized while detailed to the JTTF. The FBI will secure the required authorization for their deputation. Deputation of these individuals will ensure that they are able to assist fully in investigations in compliance with applicable federal statutes. On occasion, investigations may be conducted outside of the JTTF's assigned territory. Deputation will allow non-federal members of the JTTF to exercise federal law enforcement authority throughout the United States.

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Under the terms of this MOU, all Participating Agencies agree that non-sworn personnel detailed to the JTTF will not : (1) participate in law enforcement activities, (2) carry a weapon; or (3) participate in the execution of search/arrest warrants.

VIII. STAFFING COMMITMENT

A. In view of the need for security clearances and continuity of investigators, all personnel detailed to the JTTF should be expected to be detailed for a period of at least two (2) years. This MOU imposes no maximum limit as to the time that any individual may remain a member of the JTTF. All non-FBI members of the JTTF must adhere to the same rules and regulations as FBI employees with regard to conduct and activities while in FBI space, while operating FBI vehicles, and while conducting JTTF business. All Task Force members detailed from other federal agencies are responsible for maintaining an appropriate case load, as directed by JTTF management.

B. All investigators detailed to the JTTF will be designated either full-time or part-time. The operational needs of the JTTF require that any assignments to special details, or duties outside of the JTTF to full-time JTTF members be coordinated with the FBI JTTF Supervisor. Though each JTTF member will report to his or her respective Participating Agency for personnel matters, he or she will coordinate leave with the JTTF's FBI JTTF Supervisor.

C. During periods of heightened threats and emergencies, the JTTFs may be expected to operate 24 hours per day, seven days per week, for extended periods of time. To function properly, the JTTF depends upon the unique contributions of each Participating Agency. Accordingly, during these periods, each Participating Agency member will be expected to be available to support JTTF activities.

IX. RECORDS, REPORTS AND INFORMATION SHARING

A. All JTTF materials and investigative records, including any Memorandum of Understanding, originate with, belong to, and will be maintained by the FBI. All investigative reports will be prepared by JTTF personnel solely on FBI forms. All information generated by the FBI or the JTTF will be controlled solely by the FBI and may not be removed from FBI space without the approval of the JTTF Supervisor. Dissemination, access or other use of JTTF records will be in accordance with Federal law, Executive Orders, and Department of Justice and FBI regulations and policy, including the dissemination and information sharing provisions of the FBI Intelligence Policy Manual. As FBI records, they may be disclosed only with FBI permission and only in conformance with the provisions of federal laws and regulations, including the

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Freedom of Information Act, 5 U.S.C. Section 552, and the Privacy Act of 1974, 5 U.S.C. Section 552a, as well as applicable civil and criminal discovery privileges. This policy includes any disclosure of FBI information, including JTTF materials and investigative records, to employees and officials of a Participating Agency who are not members of a JTTF, which must be approved by the JTTF supervisor. All electronic records and information, including, but not limited to, systems, databases and media, are also regulated by FBI policy. JTTF members may request approval to disseminate FBI information from the JTTF Supervisor.

B. Each Participating Agency agrees to have its Detailees to the JTTF execute an FD-868, or a similar form approved by the FBI . This action obligates the Detailee, who is accepting a position of special trust in being granted access to classified and otherwise sensitive information as part of the JTTF, to be bound by prepublication review to protect against the unauthorized disclosure of such information.

C. The participation of other federal, state, local, and tribal partners on the JTTF is critical to the long-term success of the endeavor. Articulating the level of effort for these partnerships is a key measure of the JTTF's performance. Accordingly, all task force members will be required to record their workload in the Time Utilization Recordkeeping (TURK) system used by the FBI.

X. COORDINATION

A. The Participating Agency agrees to not knowingly act unilaterally on any matter affecting the JTTF without first coordinating with the FBI. The parties agree that matters designated to be handled by the JTTF shall not knowingly be subject to non-JTTF or non-FBI intelligence, law enforcement, or operational efforts by the Participating Agency. Intelligence, law enforcement, and operational actions will be coordinated and cooperatively carried out within the JTTFs.

B. JTTF criminal investigative procedures will conform to the requirements for federal prosecution. It is expected that the appropriate United States Attorney, in consultation with the FBI and affected JTTF partners, will determine on a case-by-case basis whether the prosecution of cases will be at the federal or state level, based upon which would better advance the interests of justice.

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XI. FUNDING

This MOU is not an obligation or commitment of funds, nor a basis for transfer of funds. Even where one party has agreed (or later does agree) to assume a particular financial responsibility, written agreement must be obtained before incurring an expense expected to be assumed by another party. All obligations of and expenditures by the parties are subject to their respective budgetary and fiscal processes and availability of funds pursuant to all laws, regulations, and policies applicable thereto. The parties acknowledge that there is no intimation, promise, or guarantee that funds will be available in future years. The FBI and the Participating Agency may enter into a separate agreement to reimburse the Participating Agency for approved overtime expenses.

XII. TRAVEL

All JTTF-related travel of non-FBI personnel requires the approval of the appropriate JTTF Supervisor and Participating Agency authorization prior to travel. In order to avoid delay in operational travel, the Participating Agency will provide general travel authority to all of its participating employees for the duration of the employee's membership in the JTTFs. For domestic travel, each agency member will be responsible for appropriate notifications within his or her own agency, as well as standard FBI travel approvals and notification. The FBI will obtain FBIHQ authorization and country clearances for all JTTF members who are required to travel outside the United States. As noted above, the appropriate security clearance must be obtained prior to any international travel. The FBI will pay costs for travel of all members of the JTTFs to conduct investigations outside of the JTTF's assigned territory.

XIII. VEHICLES AND EQUIPMENT

A. In furtherance of this MOU, employees of the Participating Agency may be permitted to drive FBI owned or leased vehicles for surveillance, case management and investigation in connection with any JTTF investigation. FBI vehicles must only be used for official JTTF business and only in accordance with applicable FBI rules and regulations.

B. Any civil liability arising from the use of an FBI owned or leased vehicle by a Participating Agency task force member while engaged in any conduct other than his or her official duties and assignments under this MOU shall be the responsibility of the Participating Agency. The Participating Agency will indemnify and hold harmless the FBI and the United States for any claim for property damage or personal injury arising from any use of an FBI owned or leased vehicle by a Participating Agency JTTF

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member which is outside of the scope of his or her official duties and assignments under this MOU.

C. For official inventory purposes, all JTTF equipment including badges, credentials and other forms of JTTF identification subject to FBI property inventory requirements will be produced by each JTTF member upon request. At the completion of the member's assignment on the JTTF, or upon withdrawal or termination of the Participating Agency from the JTTF, all equipment will be returned to the supplying agency.

XIV. FORFEITURE

The FBI shall be responsible for the processing of assets seized for federal forfeiture in conjunction with JTTF operations, as provided by these rules and regulations. Asset forfeitures will be conducted in accordance with federal law and the rules and regulations set forth by the U.S. Department of Justice and the FBI. Forfeitures attributable to JTTF investigations may be distributed among the Participating Agencies in JTTF-related operations at the discretion of the FBI.

XV. HUMAN SOURCES

A. All human sources developed through the JTTF will be handled in accordance with the Attorney General's and the FBI's guidelines, policies and procedures.

B. All human sources developed during the course of any JTTF investigation shall be operated with all appropriate FBI suitability paperwork completed prior to use. All source debriefings or written products of information obtained from any human source will use FBI document format and handling procedures.

C. The FBI, as permitted by federal law, agrees to pay reasonable and necessary human source expenses incurred by the JTTF. All expenses must be approved by the FBI before they are incurred. No payments may be made to JTTF human sources without prior FBI approval.

XVI. MEDICAL

A. All Participating Agencies will ensure that detailed JTTF members are medically qualified according to their agencies' standards to perform law enforcement duties, functions and responsibilities.

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B. To ensure protection for purposes of the Federal Employees' Compensation Act (FECA), JTTF members should be detailed to the FBI consistent with the provisions of the Intergovernmental Personnel Act (IPA), 5 U.S.C. § 3374(d). This Act stipulates that "[a] State or local government employee who is given an appointment in a Federal agency for the period of the assignment or who is on detail to a Federal agency and who suffers disability or dies as a result of personal injury sustained while in the performance of his duty during the assignment shall be treated . . . as though he were an employee as defined by section 8101 of this title who has sustained the injury in the performance of duty." Other provisions of federal law may extend FECA benefits in more limited circumstances. The Department of Labor's Office of Workers' Compensation Programs is charged with making FECA coverage determinations and is available to provide guidance concerning specific circumstances.

XVII. TRAINING

All JTTF members are required to attend FBI legal training in compliance with FBI regulations and any other training deemed necessary by the FBI chain of command. The FBI is responsible for the costs of such training. The Participating Agency will bear the costs of any training required of its own employees detailed to the JTTF.

XVIII. DEADLY FORCE AND SHOOTING INCIDENT POLICIES

Members of the JTTF will follow their own agency's policy concerning use of deadly force.

XIX. DEPARTMENT OF DEFENSE COMPONENTS

The Posse Comitatus Act, 18 U.S.C. § 1385, prohibits the Army and Air Force (Department of Defense regulations now restrict the activities of all branches or components of the Armed Services under this Act) from being used as a posse comitatus or otherwise to execute the laws entrusted to civilian law enforcement authorities. The restrictions of the Act do not apply to civilian employees of the Department of Defense who are not acting under the direct command and control of a military officer. Other statutory provisions specifically authorize certain indirect and direct assistance and participation by the military in specified law enforcement functions and activities. All Department of Defense components (except strictly civilian components not acting under direct command and control of a military officer) who enter into this agreement, shall comply with all Department of Defense regulations and statutory authorities (describing restrictions, authorizations and conditions in support of law enforcement) including but not limited to Department of Defense Directives 5525.5, and 3025.15, Chapter 18 of Title 10 of the United States Code dealing with military support for civilian law enforcement agencies and any other or

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subsequent rules, regulations, and laws that may address this topic or that may amend, or modify any of the above provisions. This MOU shall not be construed to authorize any additional or greater authority (than already described) for Department of Defense components to act in the support of law enforcement activities.

XX. MEDIA

All media releases will be mutually agreed upon and jointly handled by the member Participating Agencies of the appropriate JTTF. Press releases will conform to DOJ Guidelines regarding press releases. No press release will be issued without prior FBI approval.

XXI. LIABILITY

The Participating Agency acknowledges that financial and civil liability, if any and in accordance with applicable law, for the acts and omissions of each employee detailed to the JTTF remains vested with his or her employing agency. However, the Department of Justice (DOJ) may, in its discretion, determine on a case-by-case basis that an individual should be afforded legal representation, legal defense, or indemnification of a civil judgment, pursuant to federal law and DOJ policy and regulations.

A. COMMON LAW TORT CLAIMS

1. Congress has provided that the exclusive remedy for the negligent or wrongful act or omission of an employee of the U.S. Government, acting within the scope of his or her employment, shall be an action against the United States under the FTCA, 28 U.S.C. § 1346(b), and §§ 2671 - 2680.

2. Notwithstanding the provisions contained in Article XIII of this MOU, for the limited purpose of defending civil claims arising out of JTTF activity, a state, local, or tribal law enforcement officer who has been federally deputized and who is acting within the course and scope of his or her official duties and assignments pursuant to this MOU may be considered an "employee" of the U.S. government, as defined at 28 U.S.C. § 2671. See 5 U.S.C. § 3374(c)(2).

3. Under the Federal Employee Liability Reform and Tort Compensation Act of 1998 (commonly known as the Westfall Act), 28 U.S.C. § 2679(b)(1), if an employee of the United States is named as a defendant in a civil action, the Attorney General or his or her designee may certify that the defendant acted

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within the scope of his or her employment at the time of the incident giving rise to the suit. 28 U.S.C. § 2679(d)(2). The United States can then be substituted for the employee as the sole defendant with respect to any tort claims alleged in the action. 28 U.S.C. § 2679(d)(2). If the United States is substituted as defendant, the individual employee is thereby protected from suit on any tort claim arising out of the incident.

4. If the Attorney General declines to certify that an employee was acting within the scope of employment, "the employee may at any time before trial petition the court to find and certify that the employee was acting within the scope of his office or employment." 28 U.S.C. § 2679(d)(3).

5. Liability for any negligent or willful acts of JTTF members undertaken outside the terms of this MOU will be the sole responsibility of the respective employee and agency involved.

B. CONSTITUTIONAL CLAIMS

1. Liability for violations of federal constitutional law may rest with the individual federal agent or officer pursuant to Bivens v. Six Unknown Names Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971) or pursuant to 42 U.S.C. § 1983 for state officers.

2. Federal, state, local, and tribal officers enjoy qualified immunity from suit for constitutional torts, "insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." Harlow v. Fitzgerald, 457 U.S. 800 (1982).

3. If a Participating Agency JTTF officer is named as a defendant in his or her individual capacity in a civil action alleging constitutional damages as a result of conduct taken within the course of the JTTF, the officer may request representation by DOJ. 28 C.F.R. §§ 50.15, 50.16.

4. An employee may be provided representation "when the actions for which representation is requested reasonably appears to have been performed within the scope of the employee's employment, and the Attorney General, or his or

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her designee, determines that providing representation would otherwise be in the interest of the United States." 28 C.F.R. § 50.15(a).

5. A JTTF member's written request for representation should be directed to the Attorney General and provided to the Chief Division Counsel (CDC) of the FBI division coordinating the JTTF. The CDC will forward the representation request to the FBI's Office of the General Counsel (OGC), together with a letterhead memorandum concerning the factual basis of the lawsuit. FBI's OGC will then forward the request to the Civil Division of DOJ, together with an agency recommendation concerning scope of employment and DOJ representation. 28 C.F.R. § 50.15(a)(3).

6. If a JTTF member is found to be liable for a constitutional tort, he or she may request indemnification from DOJ to satisfy an adverse judgement rendered against the employee in his or her individual capacity. 28 C.F.R. § 50.15(c)(4). The criteria for payment are substantially similar to those used to determine whether a federal employee is entitled to DOJ representation under 28 C.F.R.§ 50.15(a).

7. Determinations concerning legal representation and indemnification by the United States are discretionary and are made by DOJ on a case-by-case basis. The FBI cannot guarantee that the United States will provide legal representation, legal defense, or indemnification to any federal or state employee detailed to the JTTF, and nothing in this Article shall be deemed to create any legal right on the part of any JTTF personnel.

C. **EXPRESS RESERVATIONS**

1. Nothing in this Article shall be deemed to create an employment relationship between the FBI or the United States and any Participating Agency JTTF member other than for exclusive purposes of the FTCA, as outlined herein.

2. The participating agencies do not waive any available defenses and/or limitations on liability. No Participating Agency shall be considered to be an agent of any other Participating Agency.

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XXII. DURATION

A. The term of the MOU shall be an indefinite period. The MOU may be terminated at will by any party, provided written notice is provided to the other parties of not less than sixty (60) days. Upon termination of the MOU, all equipment will be returned to the supplying agency(ies). It is understood that the termination of this agreement by any one of the Participating Agencies will have no effect on the agreement between the FBI and all other participating agencies.

B. Notwithstanding this provision, the provisions of Paragraph IX, entitled RECORDS, REPORTS AND INFORMATION SHARING, and Paragraph XXI, entitled LIABILITY, will continue until all potential liabilities have lapsed. Similarly, the inherent disclaimer limitation contained in the EXPRESS RESERVATION provision will survive any termination.

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XXIII. AMENDMENTS

This agreement in no manner affects any existing MOUs or agreements with the FBI or any other agency. This agreement may be amended only by mutual written consent of the parties. The modifications shall have no force and effect unless such modifications are reduced to writing and signed by an authorized representative of the FBI and the Participating Agency.

SIGNATORIES:

Date: 3/2/07

GALE R. EVANS
Chief of Police
Port of Seattle Police Department

Date: 2/9/2007

LAURA M. LAUGHLIN
Special Agent-in-Charge
Seattle Division
Federal Bureau of Investigation

Date: 12-7-06

Chief Contracting Officer
Federal Bureau of Investigation
Washington, D.C.

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FEDERAL BUREAU OF INVESTIGATION
SEATTLE HEADQUARTERS INNOCENCE LOST TASK FORCE
MEMORANDUM OF UNDERSTANDING

PARTIES

This Memorandum of Understanding (MOU) is entered into by and between the Federal Bureau of Investigation (FBI) and the Port of Seattle Police Department (**LEA**). Nothing in this MOU should be construed as limiting or impeding the basic spirit of cooperation which exists between these agencies.

AUTHORITIES

1. Authority for the FBI to enter into this agreement can be found at Title 28, United States Code (U.S.C.), Section (§) 533; 42 U.S.C. § 3771; Title 28, Code of Federal Regulations (C.F.R.), § 0.85; and applicable United States Attorney General's Guidelines.

PURPOSE

2. The purpose of this MOU is to delineate the responsibilities of Seattle Headquarters Innocence Lost Task Force (**ILTF**) participants, maximize inter-agency cooperation, and formalize relationships between the participating agencies for policy guidance, planning, training, public and media relations. This MOU is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law or otherwise by any third party against the parties, the United States, or the officers, employees, agents, or other associated personnel thereof.

MISSION

3. The mission of the ILTF is to identify and target for prosecution criminal enterprise groups responsible for promotion of prostitution, specifically juvenile prostitution, interstate or through use of interstate commerce, drug trafficking, money laundering, alien smuggling, and violent street gangs, as well as to intensely focus on the apprehension of dangerous fugitives where there is or may be a federal investigative interest. The ILTF will enhance the effectiveness of federal/state/local law enforcement resources through a well-coordinated initiative seeking the most effective investigative/prosecutive avenues by which to convict and incarcerate dangerous offenders.

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SUPERVISION AND CONTROL

A. Supervision

4. Overall management of the ILTF shall be the shared responsibility of the participating agency heads and/or their designees.

5. The Special Agent in Charge (SAC) of the Seattle Division shall designate one Supervisory Special Agent (ILTF Supervisor) to supervise the ILTF. The ILTF Supervisor may designate a Special Agent to serve as the Innocence Lost Task Force Coordinator (Task Force Coordinator), overseeing the day-to-day operational and investigative matters pertaining to the ILTF.

6. Responsibility for conduct, not under the direction of the SAC, ILTF Supervisor, or Task Force Coordinator of each ILTF member, both personally and professionally, shall remain with the respective agency head and each agency shall be responsible for the actions of its respective employees.

7. Each ILTF member will be subject to the laws, regulations, policies, and personnel rules applicable to his or her respective agency. FBI participants will continue to adhere to the Bureau's ethical standards, including Department of Justice (DOJ)/FBI regulations relating to outside employment and prepublication review matters, and will remain subject to the Supplemental Standards of Ethical Conduct for employees of the DOJ.

8. Each ILTF member will continue to report to his or her respective agency head for non-investigative administrative matters not detailed in this MOU.

9. Continued assignment to the ILTF will be based on performance and at the discretion of each ILTF member's respective supervisor. The FBI SAC and ILTF Supervisor will also retain discretion to remove any member from the ILTF.

B. Case Assignments

10. The FBI ILTF Supervisor will be responsible for opening, monitoring, directing, and closing ILTF investigations in accordance with existing FBI policy and the applicable United States Attorney General's Guidelines.

11. Assignments of cases to personnel will be based on, but not limited to, experience, training and performance, in addition to the discretion of the ILTF Supervisor.

12. For FBI administrative purposes, ILTF cases will be entered into the relevant FBI computer system.

13. ILTF members will have equal responsibility for each case assigned. ILTF personnel will be totally responsible for the complete investigation from predication to resolution.

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C. **Resource Control**

14. The head of each participating agency shall determine the resources to be dedicated by that agency to the ILTF, including personnel, as well as the continued dedication of those resources. The participating agency head or designee shall be kept fully apprised of all investigative developments by his or her subordinates.

OPERATIONS

A. **Investigative Exclusivity**

15. It is agreed that matters designated to be handled by the ILTF will not knowingly be subject to non-ILTF law enforcement efforts by any of the participating agencies. It is incumbent on each agency to make proper internal notification regarding the ILTF's existence and areas of concern.

16. It is agreed that there is to be no unilateral action taken on the part of the FBI or participating agencies relating to ILTF investigations or areas of concern as described in paragraph 3. All law enforcement actions will be coordinated and cooperatively carried out.

17. ILTF investigative leads outside of the geographic areas of responsibility for FBI Seattle Division will be communicated to other FBI offices for appropriate investigation.

B. **Informants**

18. The disclosure of FBI informants to non-ILTF members will be limited to those situations where it is essential to the effective performance of the ILTF. These disclosures will be consistent with applicable FBI guidelines.

19. Non-FBI ILTF members may not make any further disclosure of the identity of an FBI informant, including to other members of the ILTF. No documents which identify, tend to identify, or may indirectly identify an FBI informant may be released without prior FBI approval.

20. In those instances where a participating agency provides an informant, the FBI may, at the discretion of the SAC, become solely responsible for the informant's continued development, operation, and compliance with necessary administrative procedures regarding operation and payment as set forth by the FBI.

21. The United States Attorney General's Guidelines and FBI policy and procedure for operating FBI informants and cooperating witnesses (CWs) shall apply to all FBI informants and CWs opened and operated in furtherance of ILTF investigations. Documentation of, and any payments made to, FBI informants and CWs shall be in accordance with FBI policy and procedure.

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22. Operation, documentation, and payment of solely state, county, or local informants and CWs opened and operated by non-FBI ILTF members in furtherance of ILTF investigations must be in accordance with the United States Attorney General's Guidelines. Documentation of state, county, or local informants and CWs opened and operated in furtherance of ILTF investigations shall be maintained at an agreed to location.

C. **Reports and Records**

23. All investigative reporting will be prepared in compliance with existing FBI policy. Subject to pertinent legal and/or policy restrictions, copies of pertinent documents created by each member of the ILTF will be made available for inclusion in the respective investigative agencies' files as appropriate.

24. ILTF reports prepared in cases assigned to state, county, or local participants will be maintained at an FBI approved location; original documents will be maintained by the FBI.

25. Records and reports generated in ILTF cases which are opened and assigned by the FBI SSA with designated oversight for investigative and personnel matters will be maintained in the FBI investigative file for ILTF.

26. ILTF investigative records maintained at the Seattle Field Office of the FBI will be available to all ILTF members, as well as their supervisory and command staff subject to pertinent legal, administrative and/or policy restrictions.

27. All evidence and original tape recordings (audio and video) acquired by the FBI during the course of the ILTF investigations will be maintained by the FBI. The FBI's rules and policies governing the submission, retrieval and chain of custody will be adhered to by ILTF personnel.

28. All ILTF investigative records will be maintained at an approved FBI location. Placement of all or part of said information into participating agency files rests with the discretion of supervisory personnel of the concerned agencies, subject to SSA approval.

29. Classified information and/or documents containing information that identifies or tends to identify an FBI informant shall not be placed in the files of participating agencies unless appropriate FBI policy has been satisfied.

30. The Parties acknowledge that the information that members will be able to access as a result of this MOU may contain information about U.S. persons, which may be protected by the Privacy Act of 1974 and/or Executive Order 12333. The Parties expressly agree that all such information will be handled lawfully pursuant to the provisions thereof. The Parties further agree that if this access to information by the members requires a change in privacy compliance documents, those changes will be accomplished prior to access being granted.

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INFORMATION SHARING

31. No information possessed by the FBI, to include information derived from informal communications by the ILTF member with personnel of the FBI, may be disseminated by the ILTF member to non-ILTF personnel without the approval of the ILTF Supervisor and in accordance with the applicable laws and internal regulations, procedures or agreements between the FBI and the participating agencies that would permit the participating agencies to receive that information directly. Likewise, the ILTF member will not provide any participating agency information to the FBI that is not otherwise available to it unless authorized by appropriate participating agency officials.

PROSECUTIONS

32. ILTF investigative procedures, whenever practicable, are to conform to the requirements which would allow for either federal or state prosecution.

33. A determination will be made on a case-by-case basis whether the prosecution of ILTF cases will be at the state or federal level. This determination will be based on the evidence obtained and a consideration of which level of prosecution would be of the greatest benefit to the overall objectives of the ILTF.

34. In the event that a state or local matter is developed that is outside the jurisdiction of the FBI or it is decided to prosecute a ILTF case at the state or local level, the FBI agrees to provide all relevant information to state and local authorities in accordance with all applicable legal limitations.

A. Investigative Methods/Evidence

35. For cases assigned to an FBI Special Agent or in which FBI informants or CWs are utilized, the parties agree to conform to federal standards concerning evidence collection, processing, storage, and electronic surveillance. However, in situations where the investigation will be prosecuted in the State Court where statutory or common law of the state is more restrictive than the comparable federal law, the investigative methods employed by FBI case agents shall conform to the requirements of such statutory or common law pending a decision as to venue for prosecution.

36. In all cases assigned to state, county, or local law enforcement participants, the parties agree to utilize federal standards pertaining to evidence handling and electronic surveillance activities as outlined in the Domestic Investigations and Operations Guide to the greatest extent possible. However, in situations where the statutory or common law of the state is more restrictive than the comparable federal law, the investigative methods employed by state and local law enforcement agencies shall conform to the requirements of such statutory or common law pending a decision as to venue for prosecution.

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37. The use of other investigative methods (search warrants, interceptions of oral communications, etc.) and reporting procedures in connection therewith will be consistent with the policies and procedures of the FBI.

B. **Undercover Operations**

38. All ILTF undercover operations will be conducted and reviewed in accordance with FBI guidelines and the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations. All participating agencies may be requested to enter into an additional agreement if a member of the participating agency is assigned duties which require the officer to act in an undercover capacity.

DEADLY FORCE AND SHOOTING INCIDENT POLICIES

39. Members of the ILTF will follow their own agency's policy concerning firearms discharge and use of deadly force.

DEPUTATIONS

40. Local and state law enforcement personnel designated to the ILTF, subject to a limited background inquiry, may be sworn as federally deputized Special Deputy United States Marshals, with the FBI securing the required deputation authorization. These deputations should remain in effect throughout the tenure of each investigator's assignment to the ILTF or until the termination of the ILTF, whichever comes first.

41. Deputized ILTF members will be subject to the rules and regulations pertaining to such deputation. Administrative and personnel policies imposed by the participating agencies will not be voided by deputation of their respective personnel.

VEHICLES

42. In furtherance of this MOU, employees of LEA may be permitted to drive FBI owned or leased vehicles for official ILTF business and only in accordance with applicable FBI rules and regulations, including those outlined in the FBI Manual of Administrative Operations and Procedures (MAOP), Part I, Section 3.1. The assignment of an FBI owned or leased vehicle to a LEA ILTF member will require the execution of a separate Vehicle Use Agreement.

43. The participating agencies agree that FBI vehicles will not be used to transport passengers unrelated to ILTF business.

44. The FBI and the United States will not be responsible for any *tortious act or* omission on the part of LEA and/or its employees or for any liability resulting from the use of an FBI owned or leased vehicle utilized by an LEA ILTF member, except where liability may fall

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under the provisions of the Federal Tort Claims Act (FTCA), as discussed in the Liability Section herein below.

45. The FBI and the United States shall not be responsible for any civil liability arising from the use of an FBI owned or leased vehicle by an LEA task force member while engaged in any conduct other than his or her official duties and assignments under this MOU.

46. To the extent permitted by applicable law, LEA agrees to hold harmless the FBI and the United States, for any claim for property damage or personal injury arising from any use of an FBI owned or leased vehicle by an LEA ILTF member which is outside the scope of his or her official duties and assignments under this MOU.

SALARY/OVERTIME COMPENSATION

47. The FBI and LEA remain responsible for all personnel costs for their ILTF representatives, including salaries, overtime payments and fringe benefits consistent with their respective agency, except as described in paragraph 48 below.

48. Subject to funding availability and legislative authorization, the FBI will reimburse to LEA the cost of overtime worked by non-federal ILTF members assigned full-time to ILTF, provided overtime expenses were incurred as a result of ILTF-related duties, and subject to the provisions and limitations set forth in a separate Cost Reimbursement Agreement to be executed in conjunction with this MOU. A separate Cost Reimbursement Agreement must be executed between the FBI and LEA for full-time employee(s) assigned to ILTF, consistent with regulations and policy, prior to any reimbursement by the FBI. Otherwise, overtime shall be compensated in accordance with applicable LEA overtime provisions and shall be subject to the prior approval of appropriate personnel.

PROPERTY AND EQUIPMENT

49. Property utilized by the ILTF in connection with authorized investigations and/or operations and in the custody and control and used at the direction of the ILTF, will be maintained in accordance with the policies and procedures of the agency supplying the equipment. Property damaged or destroyed which was utilized by ILTF in connection with authorized investigations and/or operations and is in the custody and control and used at the direction of ILTF, will be the financial responsibility of the agency supplying said property.

FUNDING

50. This MOU is not an obligation or commitment of funds, nor a basis for transfer of funds, but rather is a basic statement of the understanding between the parties hereto of the tasks and methods for performing the tasks described herein. Unless otherwise agreed in writing, each party shall bear its own costs in relation to this MOU. Expenditures by each party will be subject to its budgetary processes and to the availability of funds and resources pursuant

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to applicable laws, regulations, and policies. The parties expressly acknowledge that the above language in no way implies that Congress will appropriate funds for such expenditures.

FORFEITURES

51. The FBI shall be responsible for processing assets seized for federal forfeiture in conjunction with ILTF operations.

52. Asset forfeitures will be conducted in accordance with federal law, and the rules and regulations set forth by the FBI and DOJ. Forfeitures attributable to ILTF investigations may be equitably shared with the agencies participating in the ILTF.

DISPUTE RESOLUTION

53. In cases of overlapping jurisdiction, the participating agencies agree to work in concert to achieve the ILTF's objectives.

54. The participating agencies agree to attempt to resolve any disputes regarding jurisdiction, case assignments, workload, etc., at the field level first before referring the matter to supervisory personnel for resolution.

MEDIA RELEASES

55. All media releases and statements will be mutually agreed upon and jointly handled according to FBI and participating agency guidelines.

56. Press releases will conform to DOJ Guidelines regarding press releases. No release will be issued without FBI final approval.

SELECTION TO ILTF AND SECURITY CLEARANCES

57. If an LEA candidate for the ILTF will require a security clearance, he or she will be contacted by FBI security personnel to begin the background investigation process prior to the assigned start date.

58. If, for any reason, the FBI determines that an LEA candidate is not qualified or eligible to serve on the ILTF, the participating agency will be so advised and a request will be made for another candidate.

59. Upon being selected, each candidate will receive a comprehensive briefing on FBI field office security policies and procedures. During the briefing, each candidate will execute non-disclosure agreements (SF-312 and FD-868), as may be necessary or required by the FBI.

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60. Before receiving unescorted access to FBI space identified as an open storage facility, ILTF members will be required to obtain and maintain a "Top Secret" security clearance. ILTF members will not be allowed unescorted access to FBI space unless they have received a Top Secret security clearance.

61. Upon departure from the ILTF, each candidate will be given a security debriefing and reminded of the provisions contained in the non-disclosure agreement previously agreed to by the ILTF member.

LIABILITY

62. The participating agencies acknowledge that this MOU does not alter the applicable law governing civil liability, if any, arising from the conduct of personnel assigned to the ILTF.

63. The participating agency shall immediately notify the FBI of any civil, administrative, or criminal claim, complaint, discovery request, or other request for information of which the agency receives notice, concerning or arising from the conduct of personnel assigned to the ILTF or otherwise relating to the ILTF. The participating agency acknowledges that financial and civil liability, if any and in accordance with applicable law, for the acts and omissions of each employee detailed to the ILTF remains vested with his or her employing agency. In the event that a civil claim or complaint is brought against a state or local officer assigned to the ILTF, the officer may request legal representation and/or defense by DOJ, under the circumstances and pursuant to the statutes and regulations identified below.

64. For the limited purpose of defending against a civil claim arising from alleged negligent or wrongful conduct under common law under the FTCA, 28 U.S.C. § 1346(b), and §§ 2671-2680: An officer who has been specially deputized and who is named as a defendant in a civil action as a result of or in connection with the performance of his or her official duties and assignments pursuant to this MOU may request to be certified by the Attorney General or his designee as having acted within the scope of federal employment at the time of the incident giving rise to the suit. 28 U.S.C. § 2679(d)(2). Upon such certification, the officer will be considered an "employee" of the United States government for the limited purpose of defending the civil claim under the FTCA, and the claim will proceed against the United States as sole defendant. 28 U.S.C. § 2679(d)(2). Once an individual is certified as an employee of the United States for purposes of the FTCA, the United States is substituted for the employee as the sole defendant with respect to any tort claims. Decisions regarding certification of employment under the FTCA are made on a case-by-case basis, and the FBI cannot guarantee such certification to any ILTF member.

65. For the limited purpose of defending against a civil claim arising from an alleged violation of the U.S. Constitution pursuant to 42 U.S.C. § 1983 or Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971): An officer who has been specially deputized and who is named as a defendant in a civil action as a result of or in connection with the performance of his or her official duties and assignments pursuant to this

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MOU may request individual-capacity representation by DOJ to defend against the claims. 28 C.F.R. §§ 50.15, 50.16. Any such request for individual-capacity representation must be made in the form of a letter from the individual defendant to the U.S. Attorney General. The letter should be provided to Chief Division Counsel (CDC) for the FBI Seattle Division, who will then coordinate the request with the FBI Office of the General Counsel. In the event of an adverse judgment against the individual officer, he or she may request indemnification from DOJ. 28 C.F.R. § 50.15(c)(4). Requests for DOJ representation and indemnification are determined by DOJ on a case-by-case basis. The FBI cannot guarantee the United States will provide legal representation or indemnification to any federal, state or local law enforcement officer.

66. Liability for any conduct by an ILTF member undertaken outside of the scope of his or her assigned duties and responsibilities under this MOU shall not be the responsibility of the FBI or the United States and shall be the sole responsibility of the respective employee and/or agency involved.

DURATION

67. The term of this MOU is for the duration of the ILTF's operations, contingent upon approval of necessary funding, but may be terminated at any time upon written mutual consent of the agency involved.

68. Any participating agency may withdraw from the ILTF at any time by written notification to the SSA with designated oversight for investigative and personnel matters or program manager of the ILTF at least 30 days prior to withdrawal.

69. Upon termination of this MOU, all equipment provided to the ILTF will be returned to the supplying agency/agencies. In addition, when an entity withdraws from the MOU, the entity will return equipment to the supplying agency/agencies. Similarly, remaining agencies will return to a withdrawing agency any unexpended equipment supplied by the withdrawing agency during any ILTF participation.

MODIFICATIONS

70. This agreement may be modified at any time by written consent of all involved agencies.

71. Modifications to this MOU shall have no force and effect unless such modifications are reduced to writing and signed by an authorized representative of each participating agency.

SIGNATORIES

Special Agent in Charge
Federal Bureau of Investigation

4/2/2012
Date

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Chief
Port of Seattle Police Department

2-29-12
Date

N/A
Contracting Officer
Federal Bureau of Investigation

Date

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FEDERAL BUREAU OF INVESTIGATION
CHILD EXPLOITATION TASK FORCE (CETF)
Memorandum of Understanding (MOU)

PARTIES

1. This Memorandum of Understanding (MOU) is entered into by the following "Participating Agencies":

a. **Federal Bureau of Investigation (FBI)**

b. **Seattle Police Department**

c. **SeaTac Police Department**

d. **Kent Police Department**

e. **King County Sheriff's Office**

f. **Port of Seattle Police Department**

g. **City of Bellevue**

h. _____

AUTHORITIES

2. Authority for the FBI to enter into this agreement can be found at Title 28, United States Code (U.S.C.), Section (§) 533; 42 U.S.C. § 3771; Title 28, Code of Federal Regulations (C.F.R.), § 0.85; and applicable United States Attorney General's Guidelines.

PURPOSE

3. The purpose of this MOU is to delineate the responsibilities of the Seattle Child Exploitation Task Force (CETF) participants, maximize inter-agency cooperation, and formalize relationships between the participating agencies for policy guidance, planning, training, public and media relations. This MOU is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law or otherwise by any third party against the parties, the United States, or the officers, employees, agents, or other associated personnel thereof. The MOU also outlines the mission and procedures for the CETF, which are described in greater detail in the Standard Operating Procedures (SOP) utilized by the CETF.

MISSION

4. The mission of the CETF is to provide a rapid, proactive, and intelligence-driven investigative response to the sexual victimization of children and other crimes against children within the FBI's jurisdiction; to identify and rescue child victims; to reduce the vulnerability of children to sexual exploitation and abuse; to reduce the negative impact of domestic and international parental rights disputes; and to strengthen the capabilities of the FBI and federal, state, local, and international law enforcement through training, intelligence-sharing, technical support, and investigative assistance.

SUPERVISION AND CONTROL

5. Overall management of the CETF shall be the responsibility of the Special Agent in Charge (SAC) of the Seattle Division of the FBI and/or their designee.

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6. The SAC shall designate one Supervisory Special Agent (SSA) to supervise day-to-day operational and investigative matters pertaining to the CETF.

7. For the purposes of this MOU, a CETF member is considered full-time when that member is primarily assigned duties aligned with the defined priority threats that are dedicated to the mission of the CETF on a full-time basis. On a case-by-case basis, SSAs may authorize CETF members to temporarily support other priority FBI matters as necessary.

8. Responsibility for conduct, not under the direction of the SAC or SSA, of each CETF member, both personally and professionally, shall remain with the respective agency head and each agency shall be responsible for the actions of its respective employees.

9. Each CETF member will be subject to the laws, regulations, policies, and personnel rules applicable to those of his or her respective agency. CETF members will be subject to a limited background check as required in order to obtain deputization under U.S.C. Title 28, Code of Federal Regulations (C.F.R.), § 0.85; and applicable United States Attorney General's Guidelines.

10. FBI participants will continue to adhere to the Bureau's ethical standards, including Department of Justice (DOJ)/FBI regulations relating to outside employment and prepublication review matters, and will remain subject to the Supplemental Standards of Ethical Conduct for employees of the DOJ.

11. Each CETF member will continue to report to his or her respective agency head for non-investigative administrative matters not detailed in this MOU or SOP.

12. Continued assignment to the CETF will be based on performance and at the discretion of each CETF member's respective supervisor. The FBI SAC/SSA will also retain discretion to remove any member from the CETF.

13. The defined priority threats that are aligned with the mission of the CETFs are:

a. **Child Abductions**
   - Non-ransom child abductions
   - Domestic parental kidnapping

b. **Sexual Exploitation of Children Enterprises**
   - Domestic Child Prostitution
   - Online Networks and Enterprises

c. **Contact Offenses Against Children**
   - Domestic travel with intent to engage in illegal sexual activity with a minor
   - Child Sex Tourism – travel abroad to engage in commercial sexual exploitation of a child under the age of 18
   - Production of Child Pornography
   - Coercion/enticement of a minor

d. **Trafficking of Child Pornography**
   - Mass Distribution of Child Pornography
   - Possession of Child Pornography

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e. **International Parental Kidnapping**
   - International Parental Kidnapping

f. **Other Crimes Against Children**
   - All other crimes against children violations within the FBI's jurisdiction should be investigated in accordance with available resources

RESOURCE CONTROL

14. The head of each Participating Agency shall retain control of resources dedicated by that agency to the CETF, including personnel, as well as the continued dedication of those resources. The Participating Agency head or designee shall be kept fully apprised of all investigative developments by his or her subordinates.

REPORTS AND RECORDS

15. All investigative reporting will be prepared in compliance with existing FBI policy. Subject to pertinent legal and/or policy restrictions, copies of pertinent documents created by each member of the CETF will be made available for inclusion in the respective investigative agencies' files as appropriate.

SALARY/OVERTIME COMPENSATION

16. The FBI and Participating Agency agree to assume all personnel costs for their CETF representatives, including salaries, overtime payments and fringe benefits consistent with their respective agency.

17. Subject to funding availability and legislative authorization, the FBI may reimburse to Participating Agency the cost of overtime worked by non-federal CETF members assigned full-time to CETF, provided overtime expenses were incurred as a result of CETF-related duties. A separate Cost Reimbursement Agreement (CRA) must be executed between the FBI and Participating Agency for full-time employee(s) assigned to CETF, consistent with regulations and policy. Otherwise, overtime shall be compensated in accordance with applicable Participating Agency overtime provisions and shall be subject to the prior approval of appropriate personnel.

LIABILITY

18. The Participating Agencies acknowledge that this MOU does not alter the applicable law governing civil liability, if any, arising from the conduct of personnel assigned to the CETF.

19. The Participating Agency shall immediately notify the FBI of any civil, administrative, or criminal claim, complaint, discovery request, or other request for information of which the agency receives notice, concerning or arising from the conduct of personnel assigned to the CETF or otherwise relating to the CETF.

20. In the event that a civil claim or complaint is brought against a state or local officer assigned to the CETF, the officer may request legal representation and/or defense by DOJ, under the circumstances and pursuant to the statutes and regulations identified below.

DURATION

21. The term of this MOU is for the duration of the CETF's operations, contingent upon approval of necessary funding, but may be terminated at any time upon written mutual consent of the agency involved.

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22. Any Participating Agency may withdraw from the CETF at any time by written notification to the SSA with designated oversight for investigative and personnel matters or program manager of the CETF Program (FBI HQ) at least 30 days prior to withdrawal.

23. Upon termination of this MOU, all equipment provided to the CETF will be returned to the supplying agency/agencies. In addition, when an entity withdraws from the MOU, the entity will return equipment to the supplying agency/agencies. Similarly, remaining agencies will return to a withdrawing agency any unexpended equipment supplied by the withdrawing agency during any CETF participation.

MODIFICATIONS

24. Modifications/amendments to this MOU and corresponding SOP shall be brought in writing to the attention of each Participating Agency.

25. Participating Agencies and their assignees are bound by the terms of the MOU and SOP, as modified from time to time, although a Participating Agency may terminate its participation with the CETF pursuant to the terms related to the SOP.

26. Participating Agency will not be bound by any amended terms of the MOU or SOP during notice period (currently 30 days) required by the MOU prior to terminating participation.

SIGNATORIES

Print Name: LAURA M. LAUGHLIN Title: **SAC** Organization: **FBI** Date: 2/20/2012	Print Name: C.E. Wilson Title: Chief Organization: Police of Seattle Date: 1-4-13	Print Name: Title: Organization: Date:
Print Name: Title: Organization: Date:	Print Name: Title: Organization: Date:	Print Name: Title: Organization: Date:
Print Name: Title: Organization: Date:	Print Name: Title: Organization: Date:	Print Name: Title: **Program Manager** Organization: **FBI/CID** Date:

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